

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

SHANNON LAPORTE, et al.,

Plaintiffs,

v.

ROBERT GORDON, DR.
SANDIP SHAH, DR. SARAH
LYON-CALLO, MARY
KLEYN, AND MARY SEETERLIN,
in their official capacities,

Defendants.

Case No. 20-10089
Hon. Thomas L. Ludington
Magistrate Patricia T. Morris

ORDER DENYING MOTION TO DISMISS AS MOOT

On January 14, 2020, Plaintiff, Shannon LaPorte on behalf of herself and as parent-guardian of her son, B.O., filed suit against Robert Gordon, Dr. Sandip Shah, Dr. Sarah Lyon-Callo, Mary Kleyn, and Mary Seeterlin, all in their official capacities. ECF No. 1. Plaintiffs alleged that MCL § 333.5431(2) violates the Fourth and Fourteenth Amendments (Counts I and III), the initial extraction required under MCL § 333.5431(2) violates the Fourth Amendment (Count II), and the testing of the blood spots violates the Fourteenth Amendment (Count IV). *Id.* On the same day, Plaintiff filed a motion for preliminary injunction. ECF No. 3. Plaintiff's motion for preliminary injunction was denied and is now on appeal to the Sixth Circuit. ECF Nos. 29, 30.

On March 13, 2020 Defendants filed a motion to dismiss. ECF No. 23. On April 3, 2020 Plaintiff filed an amended complaint in response to Defendants' motion to dismiss. ECF No. 32. Plaintiff also filed a response to the motion to dismiss arguing that motion should be denied as moot. ECF No. 33.

When an amended complaint is filed, the prior complaint is superseded and rendered moot. *Smith & Nephew Inc. v. Fed. Ins. Co.*, 113 Fed. App'x 99, 102 (6th Cir. Oct. 8, 2004); Fed. R. Civ. P. 15. In general, then, "motions directed at the superseded pleading generally are to be denied as moot." *Mize v. Blue Ridge Bank*, 2013 WL 1766659 at *1 (D.S.C. Feb. 12, 2013) (collecting cases). But, if the amended pleading does not cure the defects raised by the motion directed at the superseded pleading, denying the motion as moot "would be to exalt form over substance." Wright, Miller, et al., 6 Fed. Prac. & Proc. Civ. § 1476 (3d ed.). "If [Defendant] believes defects remain in the amended [complaint], [Defendant]¹ may file a motion to dismiss addressing the amended [complaint] within the time frame allotted by the Federal Rules of Civil Procedure." *Mize*, 2013 WL 1766659 at *2.

According, **IT IS ORDERED** that Defendants' Motion to Dismiss, ECF No. 23, is **DENIED AS MOOT**.

Dated: April 6, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

¹ In *Mize v. Blue Ridge Bank*, the party referenced was the Plaintiff/Counter-Defendant.